

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Eric D. Cook, *et al.*,

Plaintiffs,

-V-

Case No. 2:06-cv-0571  
JUDGE SMITH  
Magistrate Judge Kemp

The Home Depot, Inc.,

Defendant.

**ORDER**

Plaintiffs filed this putative class action on July 7, 2006 (Doc. 3). Defendant moved to dismiss on July 28, 2006 (Doc. 8).

On October 3, 2006, Plaintiffs filed an Amended Complaint (Doc. 21). Thereafter, on October 23, 2006, Defendant filed its second motion to dismiss the Amended Complaint (Doc. 31).

In light of Plaintiffs' Amended Complaint and Defendant's second motion to dismiss which encompasses all arguments made in the first motion to dismiss, Defendant's first motion to dismiss (Doc. 8) is **MOOT**.

The Clerk shall remove Doc. 8 from the Court's CJRA pending motions list.

**IT IS SO ORDERED.**

/s/ George C. Smith

**GEORGE C. SMITH, JUDGE**

**UNITED STATES DISTRICT COURT**